

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PAUL S. ROTELLA, ESQUIRE, and,; BONNIE ROTELLA, his Wife, Plaintiffs vs. STATE FARM FIRE AND CASUALTY COMPANY, Defendant	: : : : : : : : : : : :	CIVIL ACTION NO. ASSIGNED TO: JURY TRIAL DEMANDED
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NOTICE OF REMOVAL

Defendant State Farm Fire and Casualty Company (“State Farm”), by and through its attorneys, Forry Ullman, files the following Notice of Removal:

1. A Complaint in the above-captioned civil action was filed in the Court of Common Pleas of Pike County, Pennsylvania, on May 4, 2020, served on State Farm by certified mail on May 11, 2020, and received by State Farm on May 18, 2020.

2. The Complaint was docketed as Pike County Court of Common Pleas No. 510-2020-Civil. A true and correct copy of the Complaint is attached hereto as Exhibit “A”.

3. The Complaint alleges that Plaintiffs, Paul S. Rotella, Esquire and Bonnie Rotella, his wife, are adult individuals and citizens of the Commonwealth of Pennsylvania, residing at 1 Fox Run, Tafton, Pennsylvania (with a mailing address of P.O. Box 136, Tafton, Pennsylvania), as of the date of the filing of the

Complaint. It is further believed that Plaintiffs remain citizens of the Commonwealth of Pennsylvania, as of the date of the filing of this Petition for Removal. See Complaint at Paragraphs 1, 3 and Exhibit A.

4. This action involves declaratory judgment and bad faith claims under a homeowner's policy of insurance.

5. Plaintiffs aver that they insured their home located in Tafton, Pennsylvania with State Farm under a homeowners policy of insurance. See Complaint at Paragraphs 3 and 28.

6. Plaintiffs further aver that "(o)n or about July 16, 2019, the Plaintiffs became aware of a leak in the Plaintiffs' living room ceiling" which they contend was caused by a rupture of a PEX supply line in the bathroom above the living room. See Complaint at Paragraphs 4 and 7.

7. The Complaint alleges that Plaintiff Bonnie Rotella made a claim to State Farm, that State Farm inspected the damage on or about July 29, 2019, and State Farm denied coverage for the claim because it determined the loss was a result of a long-term leak and not a sudden accidental burst of water. See Complaint at Paragraphs 8 - 13.

8. Plaintiffs disagree with the denial of coverage. See Complaint at Paragraphs 14 - 17.

9. The Complaint contains two purported Counts: Count I for Declaratory Judgment and Count II for Bad Faith and Breach of Covenant, Good Faith and Fair Dealings pursuant to 42 Pa.C.S. §8371.

10. In Count I, Plaintiffs seek a declaratory judgment that the loss is covered under the homeowners policy, and that State Farm must pay \$41,421.79 in damages. See Complaint at Paragraphs 29 – 31.

11. In Count II for Bad Faith pursuant to 42 Pa.C.S. §8371, Plaintiffs allege, among other things, that State Farm acted in bad faith by “denying Plaintiffs insurance coverage on the basis of an exclusion which is inaccurate....” See Complaint at Paragraph 34.f.

12. In Count II, Plaintiffs demand judgment against State Farm for interest, costs of suit, punitive damages as permitted by law and attorney’s fees.

13. Defendant State Farm is an Illinois corporation in the business of insurance, with its principal place of business located at One State Farm Plaza, Bloomington, Illinois 61710, at the time of the commencement of this action as well as at the time of the filing of this Petition for Removal.

14. Thus, for purposes of diversity jurisdiction, State Farm is a citizen of the State of Illinois.

15. State Farm is filing this Notice of Removal in that diversity of citizenship exists between Plaintiffs, citizens of Pennsylvania, and State Farm, a citizen of Illinois.

16. The amount in controversy exceeds the jurisdictional amount of \$75,000.00 because Plaintiffs are requesting: (1) judgment in an amount of \$41,421.79 plus interest, costs of suit, punitive damages and attorney's fees.

17. Pennsylvania's bad faith insurance statute, 42 Pa.C.S. §8371 provides that a court may award punitive damages, interest, costs and attorney fees if it determines that an insurer acted in bad faith toward the insured.

18. Although State Farm vigorously disputes punitive damages are warranted in this matter, punitive damages are properly considered in determining whether the amount in controversy has been satisfied. Bell v. Preferred Life Assur. Soc. Of Montgomery, Ala., 64 S.Ct. 5 (U.S. Ala. 1943); Frederico v. Home Depot, 507 F.3d 188, 199 (3d Cir. 2007); Henderson v. Nationwide Mutual Ins. Co., 169 F.Supp.2d 365, 368 (E.D.Pa. 2001)(attorneys fees, interest and "punitive damages are included in the amount in controversy if they are available to successful plaintiffs under a statutory cause of action")(citing Markowitz v. Northeast Land Co., 906 F.2d 100, 103 (3d Cir. 1990)).

19. Removal is timely under 28 U.S.C. §1446(b), because less than thirty (30) days have elapsed since service of the Complaint on State Farm.

20. State Farm will give written notice of the filing of this Notice to Plaintiffs, as required by 28 U.S.C. §1446(d).

21. A copy of this Notice will be filed with the Prothonotary of Pike County, as required by 28 U.S.C. §1446(d).

WHEREFORE, Defendant, State Farm Fire and Casualty Company, requests that this action proceed in this Court as a Civil Action properly removed.

Respectfully submitted,

FORRY ULLMAN

Dated: 06/15/2020

By: /s/ Gary A. Drakas
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FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PAUL S. ROTELLA, ESQUIRE, and,:	CIVIL ACTION	
BONNIE ROTELLA, his Wife,	:	
Plaintiffs	:	
	:	NO.
vs.	:	
	:	ASSIGNED TO:
STATE FARM FIRE AND	:	
CASUALTY COMPANY,	:	
Defendant	:	JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of June, 2020, a true and correct copy of State Farm's Notice of Removal was served upon the Plaintiffs, by mailing the same to Plaintiff's counsel of record, via United States First Class Mail, postage pre-paid, addressed as follows:

Thomas F. Farley, Esquire
Farley & Bernathy, LLC
406 Broad Street
Milford, PA 18337

This statement is made subject to the penalties of 18 U.S.C. §1621, relating to perjury.

FORRY ULLMAN

Dated: 06/15/2020

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